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93-954

Supreme Court, U.S.
FILED
DEC 9 1993
OFFICE OF THE CLERK

No. _____

SUPREME COURT OF THE UNITED STATES
October, 1993 Term

PAULA TSACONAS, DOUG BURBECK, JOSEPH J. JAN LOIS, JR., CHANNING JONES III, JAMES H. KARLS, MILTON KRAMLICH, JOHN LEE, HAROLD J. MYERS, NAMAQUA LIMITED PARTNERSHIP, NOVA COM PARTNERS, JOHN PANOZZO, SIERRA COM PARTNERS, ARNOLD LEONG D/B/A SOBRANTECH, HELLA TSACONAS, WARREN HAVENS, KENNETH MERIN, AIR CABLE LIMITED PARTNERSHIP

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Appendix to Petition for Writ of Certiorari.

Richard S. Myers, Esq.
Counsel of Record

Law Offices of Richard S. Myers
1030 15th Street, N.W., Suite 908
Washington, D.C. 20005
(202) 371-0789

R3 P

UNITED STATES COURT OF APPEALS

For The District of Columbia Circuit

No. 93-1032 September Term, 1992

Paula Tsaconas,

Appellant

v.

Federal Communications Commission

And consolidated cases

Filed: June 29, 1993

Ron Garvin, Clerk

BEFORE: Mikva, Chief Judge; Wald and Buckley, Circuit Judges

O R D E R

Upon consideration of the motion to dismiss, the response thereto and the reply, it is

ORDERED that the motion to dismiss be granted. Appellants' arguments do not support their contention that they were

not required to exhaust their administrative remedies prior to seeking judicial review. See 47 U.S.C. § 155(c)(7).

The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. See D.C. Cir. Rule 15.

Per Curiam

/s/ /s/ /s/

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 15 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Air Cable Limited Partnership File Nos. 781116-781121

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on

behalf of Air Cable Limited Partnership, relating to the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the

certification provisions of Sections 94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on

behalf of Air Cable Limited Partnership's individual requests. Air Cable Limited Partnership's applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing

Division

amw/aircable/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 15 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Paula Tsaconas File No. 781559

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

The informal request for Commission action regarding the application of Paula Tsaconas, file number 781559, was untimely filed and is therefore denied.

Our records reflect that the above-captioned application was dismissed by the Commission on April 10, 1992. A request for Commission action under the provisions of Section 1.106 of the Rules was not filed on behalf of Paula Tsaconas within the 30 day period permitted to file a petition for reconsideration.

Your requested review of Ms. Tsaconas' application under Section 1.41 of the Rules is not applicable in cases where formal procedures (such as the filing of a petition for reconsideration under the provisions of Section 1.106) are already in place.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing

Division

amw/tsaconas/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 15 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Kenneth Merin File Nos. 781140-781148; 781150-781151

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on

behalf of Kenneth Merin, relating to the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the

certification provisions of Sections 94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on

behalf of Merin's individual requests. Merin's applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/merin/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 15 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Warren Havens File Nos. 781104-781105

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on behalf of Mr. Warren Havens, relating to

the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the certification provisions of Sections

94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master", with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, the applications were no longer prepared for individual requests, and did not take into account all pending applications,

to include the other pending applications prepared at that same time by Mr. Warren Havens. Additionally, as each application was completed, a new custom-tailored supplemental showing was not prepared as part of the validation process. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In his affidavit dated May 11, 1992, Mr. Havens avers that the manner in which the applications were prepared was in compliance with Commission Rules. However, Mr. Havens own submissions show that he was on notice that a problem existed as to the manner in which the applications were being prepared. Havens

stated that he was informed by Mr. Charles Youngblood, president of Micronet, that the Commission might question the authenticity of the documents. In paragraph 27 of Mr. Havens' May 11, 1992 affidavit he stated:

> 27. "Mr. Charles Yougblood of Micronet did comment to me that such use of a photocopy with his authorized frequencies typed in by me, which would involve a different typeface than that his printer had, could result in the FCC questioning the authenticity of the document. (I assured him that I would not hold him, nor Mr. Trott, responsible for such possible FCC concerns, and that it would be possible to easily provide this authentication to the FCC, which he agreed to and in fact

has provided whenever requested (see below)."

In paragraph 29 of Mr. Havens May 11, 1992 affidavit, he stated that he had also been advised by legal counsel at the law offices of Keller and Heckman in Washington, D.C., that the Commission might question the use of a photocopy. Ignoring this advice, Mr. Havens filed the photocopied applications with the Commission anyway.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing
Division

amw/havens/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 15 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Hella Tsaconas File Nos. 781562

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on behalf of Hella Tsaconas, relating to the

above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the certification provisions of Sections

94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on behalf of Tsaconas' individual request.

Tsaconas' application, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/hellatsa/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 16 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Arnold Leong d/b/a Sobrantech File Nos. 780319-780321; 780323-780333

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to

the Petition for Reconsideration filed on behalf of Arnold Leong d/b/a Sobrantech, relating to the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above

applications failed to comply with the certification provisions of Sections 94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was

no longer preparing applications on behalf of Sobrantech's individual requests. Sobrantech's applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing

Division

amw/leong/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 16 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Sierra Comm Partners
File Nos. 780272-780277
780300-780301 780302
780307 780309-780310 and
780312-780314

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other

documents brought before us relating to the Petition for Reconsideration filed on behalf of Sierra Comm Partners, relating to the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The

engineering analyses for the above applications failed to comply with the certification provisions of Sections 94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the

frequencies at a later time, Havens was no longer preparing applications on behalf of Sierra Comm's individual requests. Sierra Comm's applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing
Division

amw/sierra/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 15 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Doug Burbeck File Nos. 781556-781557

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on behalf of Doug Burbeck, relating to the

above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the certification provisions of Sections

94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on behalf of Burbeck's individual requests.

Burbeck's applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/burbeck/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 15 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Joseph J. Jan Lois, Jr.

File Nos. 781565-781567

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on behalf of Joseph J. Jan Lois, Jr.,

relating to the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the certification provisions of Sections

94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on behalf of Jan Lois' individual requests.

Jan Lois' applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/janlois/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 15 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Channing Jones III File Nos. 781560-781561

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on behalf of Channing Jones III, relating to

the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the certification provisions of Sections

94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on behalf of Jones' individual requests.

Jones' applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/jones/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 15 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: James H. Karls File Nos. 78106-781115; 781278-781283

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on

behalf of James H. Karls, relating to the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the

certification provisions of Sections 94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on

behalf of Karls' individual requests. Karls' applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/karls/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 16 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Milton Kramlich File Nos. 781190-781194

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on behalf of Milton Kramlich, relating to

the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the certification provisions of Sections

94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on behalf of Kramlich's individual requests.

Kramlich's applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/kramlich/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 16 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: John Lee File Nos. 781100-781103

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on behalf of John Lee, relating to the above

Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the certification provisions of Sections

94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on behalf of Lee's individual requests.

Lee's applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/lee/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 16 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Harold J. Myers File Nos. 781162-781167; 781169-781173

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on

behalf of Harold J. Myers, relating to the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the

certification provisions of Sections 94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on

behalf of Myers' individual requests. Myers' applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/hmyers/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 16 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Namaqua Limited Partnership File Nos. 781152-781159

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on

behalf of Namaqua Limited Partnership, relating to the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the

certification provisions of Sections 94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on

behalf of Namaqua's individual requests. Namaqua's applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/namaqua/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 16 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: Nova Com Partners File Nos. 781123-781131 and 781133-781134

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on

behalf of Nova Com Partners, relating to the above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the

certification provisions of Sections 94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on

behalf of Nova Com's individual requests. Nova Com's applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/nova/rah

Federal Communications Commission

1270 Fairfield Road

Gettysburg, PA 17325-7245

DEC 16 1992

Richard S. Myers, Esquire

1090 Vermont Avenue, N.W., Suite 800

Washington, D.C. 20005

In Re: John Panozzo File Nos. 781563-781564

Request for Reconsideration regarding Applications For Multiple Address System Station Authorizations in the Private Operational Fixed Microwave Service

Dear Mr. Myers:

Consideration has been given to all pleadings, correspondence and other documents brought before us relating to the Petition for Reconsideration filed on behalf of John Panozzo, relating to the

above Multiple Address System (MAS) applications that were dismissed by the Commission. The Petition for Reconsideration has been denied pursuant to the delegated authority granted to us under the provisions of 47 CFR Sec. 1.106.

Under the provisions of Sections 94.15 and 94.63 of the Commission's Rules, applicants for stations in the Private Operational-Fixed Microwave Service are required to perform an individual frequency engineering analysis certifying that the proposed facilities will not cause harmful interference to existing or previously applied for stations. The engineering analyses for the above applications failed to comply with the certification provisions of Sections

94.15(b) and 94.63(d)(4), because every application for a new or modified station must contain an engineering analysis tailored to the individual request, taking into consideration all previously authorized facilities and pending applications.

The frequency certifications submitted to the Commission in the instant cases were not prepared for the individual applications they purported to certify, but were photocopied from a "master" purchased by Mr. Warren Havens, with the frequencies inserted later onto the "master". By purchasing a prepared "master" in advance and inserting the frequencies at a later time, Havens was no longer preparing applications on behalf of Panozzo's individual requests.

Panozzo's applications, therefore, could not take into account all pending applications including the other applications prepared at that same time by Havens. The individual applicant showings required under the provisions of Section 94.63(d)(4) could not be inferred due to lack of original coordination reports.

In accordance with Rule 1.958(c), the above applications were defective at the time of submission and therefore remain dismissed without action.

Sincerely,

/s/

W. Riley Hollingsworth

Deputy Chief, Licensing Division

amw/panozzo/rah

UNITED STATES COURT OF APPEALS

For The District of Columbia Circuit

No. 93-1032 September Term, 1992

Paula Tsaconas,

Appellant

v.

Federal Communications Commission,

Appellee

And consolidated cases

Filed: September 10, 1993

Ron Garvin, Clerk

BEFORE: Mikva, Chief Judge; Wald and Buckley, Circuit Judges

O R D E R

Upon consideration of appellants' petition for rehearing, filed August 13, 1993, it is

ORDERED, by the Court, that the

petition is denied.

Per Curiam

FOR THE COURT

RON GARVIN, CLERK

BY: /s/

Robert A. Bonner

Deputy Clerk